



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2020-0476; FRL-10021-53-Region 9]

Air Plan Approval; California; Antelope Valley Air Quality Management District, East Kern Air Pollution Control District, and Yolo-Solano Air Quality Management District;

Combustion Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Antelope Valley Air Quality Management District (AVAQMD), East Kern Air Pollution Control District (EKAPCD), and Yolo-Solano Air Quality Management District (YSAQMD) portions of the California State Implementation Plan (SIP). These revisions concern emissions of oxides of nitrogen (NO_x) from boilers, steam generating units, process heaters, and stationary internal combustion engines. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by [Insert date 30 days after the date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0476 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is

considered the official comment and should include discussion of all points you wish to make.

The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional

submission methods, please contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section. For the full EPA public comment policy, information

about CBI or multimedia submissions, and general guidance on making effective comments,

please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a

language other than English or if you are a person with disabilities who needs a reasonable

accommodation at no cost to you, please contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone at (415) 972-3073 and by email at gong.kevin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agencies, submitted by the California Air Resources Board (CARB), and the date that either a completeness determination was made, or the dates they were deemed complete by operation of law to meet the completeness criteria in 40 CFR part 51 appendix V, which must be

met before formal EPA review.

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Local Action	Submitted	Completeness Date
AVAQMD	1110.2	Emissions from Stationary, Non-Road and Portable Internal Combustion Engines	Revised 09/18/2018	10/30/2018	Complete by operation of law on 04/30/2019
EKAPCD	425.2	Boilers, Steam Generators, and Process Heaters (Oxides of Nitrogen)	Revised 01/11/2018	08/22/2018	Completeness determination on 02/11/2019
YSAQMD	2.27	Large Boilers	Revised 05/15/2019	08/19/2019	Complete by operation of law on 02/19/2020

B. *Are there other versions of these rules?*

There are no previous versions of AVAQMD Rule 1110.2 in the SIP. The AVAQMD inherited a version of Rule 1110.2 from the South Coast Air Quality Management District (SCAQMD) into their local rule book when the AVAQMD became independent from the South Coast. The AVAQMD revised this rule on May 15, 2001, and again on January 21, 2003, and the CARB submitted the 2003 version to us on April 1, 2003. We proposed a limited approval and limited disapproval on the January 21, 2003 version of the rule on April 21, 2004 (69 FR 21482), but we did not finalize that rulemaking. We have approved subsequent versions of SCAQMD Rule 1110.2 into the California SIP, but none of the versions of that rule apply to the jurisdiction of the AVAQMD.

We approved an earlier version of EKAPCD Rule 425.2 into the SIP on October 28, 1999 (64 FR 57991).

We approved an earlier version of YSAQMD Rule 2.27 into the SIP on June 17, 1997 (62

FR 32691).

C. *What is the purpose of the submitted rules?*

Emissions of NO_x help produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_x emissions. The submitted rules control NO_x through requiring compliance with emission limits, work practice standards, and other operational requirements.

The EPA's technical support documents (TSDs) have more information about these rules.

II. The EPA's Evaluation and Action

A. *How is the EPA evaluating the rules?*

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each major source of NO_x in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and (f)). The AVAQMD regulates a portion of the West Mojave Desert nonattainment area, which is classified as Severe for the 1997 8-hour national ambient air quality standard (NAAQS), 2008 8-hour NAAQS, and 2015 8-hour NAAQS. The EKAPCD regulates the Kern County (East Kern) nonattainment area, which is classified as Serious for the 2008 NAAQS, and Moderate for the 1997 and 2015 NAAQS. The YSAQMD regulates a portion of the Sacramento Metro nonattainment area, which is classified as Severe for the 1997 and 2008 NAAQS, and Moderate for the 2015 NAAQS (*See* 40 CFR 81.305 for attainment designations). Therefore, all the districts' rules must implement RACT. The EPA's determination that a jurisdiction has implemented RACT for applicable sources, including major sources of NO_x, is usually done in the context of a state's demonstration that the EPA has approved local rules in

their SIP that meet all relevant CAA requirements for stringency and enforceability. This demonstration is known as a RACT SIP.

The EPA previously found that the AVAQMD failed to demonstrate adequately stringent requirements in their RACT SIPs for major sources of NO_x under the nonattainment requirements for the 2008 ozone NAAQS.¹ The AVAQMD, via the CARB, subsequently made commitments to submit new or revised regulations intended to implement RACT within one year of the EPA's final rules for the AVAQMD. The EPA cited these commitments in our conditional approvals of the AVAQMD 2008 ozone RACT SIP on October 10, 2017 (82 FR 46923). AVAQMD Rule 1110.2 was submitted in part to address a portion of the conditional approval.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "Alternative Control Techniques Document – NO_x Emissions from Industrial/Commercial/Institutional (ICI) Boilers" (EPA-453/R-94-022, March 1994).
5. "Alternative Control Techniques Document – NO_x Emissions from Process Heaters (Revised)," revised September 1993 (EPA-453/R-93-034 1993/09).
6. "Alternative Control Techniques Document – NO_x Emissions from Stationary Reciprocating Internal Combustion Engines" (EPA-453/R-93-032, July 1993).

¹ See 40 CFR 52.248(b) for the conditional approval of the AVAQMD 2008 Ozone RACT SIP.

B. *Do the rules meet the evaluation criteria?*

These rules are consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions. The TSDs have more information on our evaluation.

C. *The EPA's recommendations to further improve the rules*

The TSDs describe additional rule revisions that we recommend for the next time the local agencies modify their rules.

D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the California air district rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose

additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In

those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: March 30, 2021.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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